Contract Positions

A. Electrical Issue:

1. POWER FOR IDFs/MDFs/POPs:

Issue: ISF will be installing equipment in almost all the affected buildings serviced by NMCI in our area of responsibility. This equipment will generally draw about 40 to 100 amps for each installation of equipment. Who has the responsibility to upgrade the power if it doesn't exist in sufficient quantities?

Decision: The Government is responsible to provide electric power to the buildings containing IDFs, MDFs and POPs in the quantity determined to be required and appropriate for the use intended. The government must supply the power to the main power panel in the building. The ISF contractor must run any electrical cable from the building main electrical panel to their facilities such as communication closets (including IDFs and MDFs), POPs and related server equipment being installed by ISF. Any electrical panels or other equipment required at the communication closet or for other NMCI equipment is the responsibility of the ISF contractor. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

2. LIGHTNING PROTECTION:

Issue: A number of government-provided facilities in lightning prone areas do not have lightning protection. On at least one base, the government is coincidentally in the process of adding lightning protection to the building, which will be installed prior to the NMCI fit-up completion. ISF has requested on a number of occasions that the government provide for the lightning protection in lightning prone areas. However, at the New Orleans server farm site, ISF has added the lightning protection to the building to protect the NMCI assets as part of the build-out costs.

Decision: The government is not responsible for providing lightning protection for server farms and NOCs as part of the GFF requirements. The government uses a risk-based analysis to determine whether to add lightning protection to buildings and facilities where there is a high risk of lightning strikes. If ISF adds the NMCI build-out to a building, increasing its value or the value of the contents of the building to the point where it would be recommended to add lightning protection, then this is considered a part of the NMCI build-out and is the ISF contractor's responsibility. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

3. ELECTRICAL TRANSFORMERS FOR REDUNDANT POWER:

Issue: There was a series of E-mails, involving PEO IT, concerning several electrical power issues at a facility.

A. The first issue involved an ISF request for a second source of power, additional to the primary power needed to run the NOC. The government informed ISF that it would not supply a second (redundant) source of power. ISF was told that their UPS and emergency backup generators, installed as part of their build-out, provides secondary power in the event that the first source failed.

B. After that was resolved, ISF determined that they needed an additional 2500 amps of power, over the 2500 amps that was serving the partially built-out NOC, server farm, and help desk. In this case, where new switchgear and a new transformer are required to provide these extra 2500 amps, the question arose as to whether the government or ISF had the responsibility to provide this new equipment.

Decision:

A. In accordance with paragraph 5.6.1 of the NMCI contract, the government is not responsible for providing a redundant primary power feed into the facility. The government is only responsible for providing primary power to the building. (Contracting Officer's position reached 20 Dec 01)

B. Power provided by the government under NMCI must be suitable for its intended use. Accordingly, the government will provide and install transformers that are required to provide suitable power to the buildings that ISF is building out for server farms EMFs and NOCs. The point of connection for ISF, either the transformer with appropriate tie-in or switchgear, needs to be close to the building being built-out. Additionally, the transformer must have a cutoff switch on the 480V secondary side of the transformer. All equipment between the transformer and the building is the responsibility of ISF.

The exception to this is if the government intends to have the transformer serve other users. In this situation the government must provide the switchgear to allow ISF to tie in at one point and other users to tie in at another. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

4. TEMPORARY POWER FOR NMCI FACILITES:

Issue: The Navy Region in Pearl Harbor could not provide a permanent electrical transformer timely for the build-out of the phased NOC in Hawaii. They proposed the use of a Mobile Utility Support Equipment (MUSE) transformer to provide power to the facility during build-out, commissioning and testing. The permanent transformer would be installed, and transformer cutover would occur in one day, after NOC completion.

Although ISF has stated that the plan was not satisfactory because part of the commissioning and testing would need to be done later or done over, the government did not agree. The NOC will be connected to a transformer at a government-provided cutout switch near or on the transformer. All ISF equipment is "downstream" of the cutout switchgear, and both the temporary and permanent transformers will meet ISF power requirements. Consequently, whether there is a temporary or permanent transformer on the government side of the demark line, that fact will be transparent to ISF's equipment. At one point during commissioning and testing, ISF normally requests that main power to the facility be cut so they can test the automatic start up of the UPS and their emergency generator. The government can accomplish the outage at the cutout switch with either a temporary or permanent transformer. It is expected that the cutover from the temporary transformer to the permanent one will occur after NOC commissioning and testing. Prior to this occurring, a short outage will be planned for commissioning and testing, to meet ISF's requirement to test their equipment. A second outage will be subsequently scheduled for the transformer cutover, during which the NOC would be required to operate on its' emergency generator power for approximately 8 hours, well within the generators capability. This event will provide ISF a second opportunity to test the automatic equipment.

Decision: Temporary power, as outlined above, fulfills the government's responsibility for providing electricity under the terms and spirit of the NMCI contract. In accordance with the contract, the government is required to provide electricity for ISF. Assuming that the power provided with the MUSE transformer is suitable for ISF's intended use, then there is no need for ISF to restart/redo the commissioning and testing process after cutover to the permanent transformer. Therefore, there is no contractual reason that a temporary transformer cannot be used on an interim basis. (Contracting Officer's position reached 7 Mar 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

5. ENERGY REQUIREMENTS:

Issue: Since the contract doesn't mention energy efficiency, a question arose whether ISF has to comply with Regional Energy standards. For example, the Southwest Region has a regional energy policy enforced by the Regional Commander and his staff in San Diego. During the recent review of the NAVSTA Server Farm design, the station/Region insisted that ISF install an electric meter with monitoring capability to tie back into a central system.

Decision: The contract does not include any provisions for ISF to comply with local energy policies. If any equipment is required by the government to monitor energy use, then it is the government's responsibility to provide that equipment. The equipment could be procured by the government, or be added by contract modification under the property clause (see new GFF clause process). (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

B. Emergency Generator:

1. FUEL FOR GENERATORS:

Issue: A question has risen concerning procurement of fuel for ISF emergency generators that are installed by ISF or that are existing government equipment. ISF generally installs new or upgraded generators at all server farm sites; either by 1) installing a stand-alone generator, or 2) replacing a government-owned generator with a new generator. Generally, the fuel tank installed by ISF for the generator is dedicated to ISF use. On one occasion, ISF installed a tank for joint use by ISF and the government.

Decision: 1). In cases where the fuel tank provides fuel to an ISF-installed generator only, ISF must pay for all fueling costs. 2.) In cases where a government-owned generator is available to a facility (whether ISF only or joint use), the government must pay for all fueling costs. 3.) In cases where an ISF fuel tank supplies fuel to multiple generators owned by the two parties, each party should pay a prorated share of fueling costs based on hours of usage and maximum power produced. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

2. AIR POLLUTION CONTROL CREDITS

Issue: An issue was encountered concerning procurement of air pollution control credits for ISF installed emergency generators. Diesel-fueled emergency generators produce air pollution. Some bases are in air quality non-attainment areas, requiring procurement of air pollution "credits" prior to installation or operation of emergency generators.

Decision: ISF is procuring (or reimbursing the government) the required air pollution "credits" for the emergency generator that they are installing at Lakehurst. Issues such as these will be decided on a case-by-case basis. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

C. Asbestos:

1. SERVER FARM ASBESTOS:

Issue: It was previously determined that in most cases Asbestos Containing Materials (ACM) would be cleaned up by the government in server farms and NOCs if the contractor could not have reasonably discovered ACM during Due Diligence.
Decision: The government will abate Asbestos Containing Materials (ACM) and other HAZMAT in NMCI server farms, EMFs and NOCs that will either be disturbed by construction or that creates an un-safe working environment and that could not have reasonably been discovered during Due Diligence. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC)

2. BAN/LAN ASBESTOS AND HAZARDOUS MATERIALS

Under Development

E. Other Issues:

1. ISF REJECTION OF BUILDINGS:

Issue: ISF rejected Building 23005 at Kings Bay for numerous reasons. The station prefers ISF occupy Building 23005, one of three base IT hubs. The station requested that Southwest Division review the rejection. ISF investigates the buildings being offered by the government and measures them against their criteria checklist and the draft ISF Facilities Standards Handbook guidance (this guidance has not been concurred with by the government).

Decision: In the case of Kings Bay, the station eventually decided that they did not want ISF to make structural modifications to the building that would have been required to make the facility usable. A new facility has been identified and formally offered for the NMCI. In general, there are going to be situations where the government and ISF disagree on whether a space meets the requirements of the contract. ISF will need to put rejections in writing to the PCO after informing PMO and Southwest Division. The government will review the rejection and decide how to proceed on a case-by-case basis. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

2. FLOOR LOADING CAPACITY:

Issue: The contract requires that the government provide ISF with government furnished facilities (GFF) for server farms, network operations centers and for base level support (facilities for admin space and warehouse space). The requirements for these facilities were not specified in the contract. One unique requirement that has come up has not been as easy to provide. The requirement to provide a portion of the server farms with a floor loading capacity of 450 pounds per square foot is greater than most floor loading capacities for spaces that do not have a slab on grade. This requirement is for the mechanical area of the server farm that will include the uninterruptible power supply (UPS) and battery storage area. Some of these facilities end up on the second floor and in many cases it is impractical to reinforce the floor support system to accommodate this requirement.

Decision: If the government cannot secure a GFF space that has this unique requirement, then ISF can either build this requirement into the space provided, or build a new exterior building that has this floor loading capacity at no additional cost to the government. The

land under the new building addition will be leased to ISF for the duration of the contract. (Contracting Officer's position reached 20 Dec 01. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

3. FURNITURE:

Issue: The government is required by the contract to provide "basic office furniture" for all NMCI facilities. The government's position is that modular systems furniture constitutes "basic office furniture". Systems furniture also requires less space than conventional furniture and will save space in the government facilities.

Decision: The government first has a responsibility to look for good quality, used furniture (systems furniture preferred). If there are no sources of good excess furniture, then the government will need to purchase new furniture. For furniture procurement, Southwest Division Interior Design group can help decide what constitutes "basic office furniture" as required by the contract and they can procure the furniture if funded. Use of the 3rd party will provide some consistency and will assist local commanders in preventing ISF from being excessive in furniture quantity or quality. (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

4. GOVERNMENT LIABILITY:

Issue: Many government facilities are old and in need of repair. The government is responsible for providing a facility that is structurally adequate and weather-resistant, and safe from HAZMAT. If the roof leaks or collapses, or some other catastrophe occurs within the government building that damages ISF equipment, is the government responsible to reimburse ISF for the damage?

Decision: The government is responsible for providing adequate facilities to house the NMCI build-out that ISF is accomplishing. This issue will be decided on a case-by-case basis taking into account the specific facts of each situation. (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

5. GOVERNMENT PROPERTY (OR GFF) CLAUSE PROCESS:

Issue: The Government Property clause modification has been signed and is now a part of the NMCI contract. The government has developed a process for authorizing ISF to proceed with added scope work during build-out of GFF and to insure that the contractor doesn't exceed the available funds on hand when accomplishing the work. When the government obtains the funds for this new work, it needs assurance that the contractor will not exceed this amount (the process should cover cases when unforeseen situations are encountered during construction of the added scope which will require reserving additional funds to cover the extra expense of a warranted change).

Decision: Modifications to the contract utilizing the Government Property clause will be handled in one of two ways (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.):

A. Negotiated Modification:
   1. Identify the need for ISF building something that is a government responsibility
   2. Station/activity prepares scope of work and Government estimate
   3. The Contracting Officer approves the scope mod for this situation
   4. Southwest Division or activity gets a promise to pay (or funds) from the major claimant
   5. Negotiation Process by Contracting Officer representative
   6. Southwest Division or activity obtains funds from claimant (if not obtained before)
   7. Contracting Officer awards contract modification
   8. ISF does the work

B. Undefinitized Modification (when there is no time to negotiate up front):
   1. Identify the need for ISF building something that is a government responsibility
   2. Station/activity prepares scope of work and Government estimate
   3. The Contracting Officer approves the scope mod for this situation
   4. Southwest Division or activity obtains funds from the major claimant
   5. Contracting Officer awards unilateral undefinitized contract modification
   6. ISF begins the work.
   7. The Contracting Officer negotiates the Modification before 50% of the work is completed.
   8. Southwest Division or activity obtains any additional funds from claimant, if required.
   9. Contracting Officer awards the definitized modification.
   10. ISF completes the work

6. TURNOVER OF INFRASTRUCTURE TO ISF:

Issue: Government-owned IT infrastructure is to be turned over to ISF at AOR. A question was asked whether the underground conduits, which are the conveyors of fiber-optic IT transmission lines, are turned over to ISF as well as the IT fiber-optic lines?

Decision: The conduit is not part of the IT infrastructure turned over to ISF from the government. The following guidance is provided:

A. If the conduits are empty, then they don't need to be turned over to ISF. If the empty conduits are not intended for government use, then the government can allow ISF to use the conduits for pulling in new cables.

B. If the conduits have some IT cables in them, and the cables are part of the existing IT infrastructure to be provided by the government to the contractor, ISF will take over the IT cables if they meet ISF criteria. If the cables do come under ISF responsibility, and there is room in the conduit for more communication cables, then the government can pull new cables (telephone cables for example) into the conduit as long as the cable function is compatible with existing IT cables and as long as the new cables won't overload the conduit or jeopardize the existing cables. (Contracting

Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

7. DRAWING REPRODUCTION:

Issue: The contract requires the government to provide "Information on: Blueprints (as available)." The question arose whether the government is required to provide hard copies of drawings to ISF at no cost to the contractor? During 1st Increment server farm and NOC construction, the government provided drawings to the contractor at no cost. Does this policy also include the BAN/LAN phase of the work? Installation of the BAN/LAN will require ISF to work in nearly all government buildings and will require drawings to support their effort.

Decision: The government is responsible for providing copies of as-built drawings to ISF if required for build-out of the server farms (incl. NOCs, EMFs, etc), supporting facilities, and the BAN/LAN IT infrastructure. (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

8. FUNDING OF NMCI RELATED COSTS INCURRED BY NAVY PUBLIC WORKS CENTERS (PWC)

Issue: The PWCs are fee-for-service activities. Their business procedure is to charge their services to the project or activity that they are supporting. Under NMCI, the PWCs are performing numerous services, such as review of ISF construction plans, consultations with fire safety specialists, providing inspection of construction progress and help with various permits. The question has arisen regarding how PWC should be funded for those services. It appears that this has been handled differently depending upon the location. In some instances the government (through the Regional Commanders) have funded all costs. In other instances, such as at the San Diego NOC, the costs were shared by ISF and the government.

Decision: The government is now responsible for funding NCMI related costs incurred by the PWCs. (Contracting Officer's position reached 7 Mar 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

9. UNIFORM FEDERAL ACCESSIBILITY STANDARDS (UFAS):

Issue: The UFAS is an Executive Branch standard to make federal facilities accessible, and it is roughly equivalent to the Americans with Disabilities Act (ADA). Facilities that do not meet current UFAS requirements must be upgraded to compliance as part of major facilities improvement or repair. The NMCI contract obligates the Government to provide adequate GFF space. This means that the Government will provide facilities appropriate for the

intended purpose. The buildings that are being provided for NMCI must either be accessible or have accessibility added prior to NMCI cutover for that facility.

Decision: The government is responsible for providing facilities appropriate for the intended use, including UFAS compliance. (Contracting Officer's position reached 22 Mar 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

10. NEW CABLE EXEMPTION:

Issue: At Crane, ISF encountered a significant amount of asbestos in the BAN/LAN cable installation in a number of buildings. Crane proposed that ISF use the existing cable in a few buildings slated for demolition in the next several years. The cable is not up to ISF standards since it is not Cat 5(E) cable. It is apparently Cat 3 Cable, but it is currently providing adequate service to the desktops in those buildings. A question arose whether the government can give ISF an exemption from installing new cable in those buildings identified for demolition. If yes, is there some change in the service level in those buildings since the cable won't be up to ISF standards?

Decision: The government will not give ISF any waiver or exemption from installing the appropriate cable in NMCI-serviced buildings. ISF can use existing infrastructure if they desire, or upgrade to their standards, as they deem necessary to provide services being procured by the government in order to meet their contract Service Level Agreements (SLAs). (Contracting Officer's position reached 20 Feb 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

11. CONSTRUCTION EASEMENTS

Issue: ISF may have to install communication cables across property not belonging to the Navy or Marine Corps. Who is responsible for obtaining any easements for construction across another entity's property?

Decision: ISF will own the infrastructure they install. ISF is therefore responsible for procuring legal documents necessary for installation of their equipment. (Contracting Officer's position reached 2 May 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

12. Custodial Support

Issue: The Navy and Marine Corps handle routine custodial services differently. The Navy generally provides custodial services to all their tenants. The Marine Corps does not routinely provide custodial services to their facilities and tenants (I have asked Major Lee to verify this). ISF has requested that the Marine Corps provide the same level of service as provided by the Navy.

Decision: ISF will be provided the level of service provided to other tenants in similar facilities on a station or base. If no custodial services are provided, then ISF will need to obtain their own custodial service at that facility. (Contracting Officer's position reached 2 May 02. Also concurred by SPAWAR counsel, PMO and Southwest Division, NAVFAC.)

13. DEWATERING (PUMPING OUT) OF MANHOLES:

Issue: Determine whether the Government or ISF is responsible for dewatering manholes.

Discussion: ISF will be pulling new communications cables through existing conduits and manholes to the maximum extent possible. Manholes are often flooded and the water must be pumped out before they can be accessed. Additionally, the groundwater in the manholes is sometimes contaminated with hazardous waste.

Decision: ISF is responsible for pumping and disposing of uncontaminated water in accordance with local, state and Federal regulations. The government is responsible for dewatering manholes flooded with contaminated water and disposing of the hazardous waste. The protocol for detection of hazmat in the water will be as follows:

- Aboard government facilities with hazmat "suspect" areas, such as North Island where there are areas designated where all the ground water is assumed to be contaminated, the government will test the water for hazmat before a determination of dewatering responsibility is made. As stated above: if the water is found to be contaminated the government is responsible; if not contaminated the ISF is responsible.
- Aboard government facilities where contaminated water is not expected to be a problem, ISF will perform a simple "sight and smell" test of the water to detect contamination. If hazmat is detected, ISF will notify local government officials who will then test the water. Dewatering responsibility will be based upon the test results.
- Local government officials will provide ISF guidance regarding dewatering responsibilities at preconstruction conferences.

(Contracting Officer's position reached 13 June 02).

14. PROTECTED DISTRIBUTION SYSTEM (PDS):

Issue: Determine the procedures for treatment of conduit in protected areas.

Discussion: The installation of PDS conduit at Naval Air Station, Lemoore prompted a question concerning exposed conduits installed below the drop ceiling and not above the ceiling where they would be concealed from view. NAVSO P-5239-22, PROTECTED DISTRIBUTION SYSTEM (PDS) INSTALLATION GUIDANCE provides the criteria for installing a Protected Distribution System. "… PDS lines should not be installed concealed (e.g. behind walls and above ceilings) from the view of personnel responsible for conducting the required route inspections and continuous surveillance". It is desirable to have the conduits installed above the drop ceiling in order to maintain and not degrade the aesthetics of the space in which the conduits are going to be installed.

Decision: In spaces with existing exposed conduits below the ceiling then below the ceiling installation is acceptable. In all other instances, the conduit must be installed above the ceiling tile, unless otherwise directed by the contracting officer. When the conduits are installed above the drop ceiling then some ceiling tiles with clear plastic or "egg crate"-panels will be provided by the government in order to view the conduits. If the above the ceiling area is used as a return air plenum for the HVAC system then the egg crate like panels are not an option and clear plastic panels must be installed If the panels are not available in time for ISF installation during work in the area, the government will install the tiles. . (Contracting Officer's position reached 13 June 02).

15. UFAS/ADA Compliant Bathrooms:

Issue: Determine the party responsible for upgrading bathroom facilities.

Discussion: ISF will be constructing permanent administration spaces is several buildings that do not currently have Uniform Federal Accessibility Standards (UFAS) or ADA accessible bathroom facilities. The Government was not previously required to provide compliant bathrooms because the buildings were constructed prior to the UFAS requirements and had not been renovated subsequent to implementation of the Executive Direction.

Decision: The Government is required to provide accessible bathrooms if the facilities are to be jointly used by the Government and ISF personnel. ISF is responsible for providing upgrades to facilities including UFAS compliance when the facility is used solely by ISF personnel. (Contracting Officer's position reached 13 June 02).

16. BASE LEVEL SUPPORT (BLS) SPACE REQUIREMENTS AT NON-SERVER FARM SITES:

Issue: Whether additional administrative space must be provided to the Contractor in areas located near a NOC or server farm or other contractor-occupied NMCI space.

Discussion: In the Oahu Region of Hawaii, ISF has requested BLS space at locations around the island for permanent admin space. Some of the locations are fairly close to the NOC on Ford Island and it appears that the space at the NOC should accommodate the needs of ISF for the local vicinity. The contract did not specify what elements are included in a NOC, other than a total of 40,000 SF. Section 5.6 of the contract discusses space as follows:

- "The Government will furnish the Contractor storage space, working space…for the use of the Contractor's personnel… Type and size of space to be provided will be based on availability and will vary at each site."
- Additionally, the Government will provide the following:
  1) Floor space adjacent to users necessary for support of the Contractor's installed equipment and personnel who will be move, add, change, and on-site maintenance."

Decision: The contract specifies that space be provided adjacent to the users; however, a reasonable commuting distance meets the intent of the contract. The contracting officer has determined that a reasonable distance is defined as one that is less than 5 miles or 10 minutes from another space occupied by the NMCI contractor. Any distance or time above this will require additional administrative space to be close to the users. (Contracting Officer's position reached 13 June 02).